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VIA ECF

Hon. A. Kathleen Tomlinson
United States Magistrate Judge
United States District Court, Eastern District of New York
100 Federal Plaza, P.O. Box 9014
Central Islip, NY 11722-9014

Re: *FragranceNet.com, Inc. v. FragranceX.com, Inc.*, CV-06-2225

Dear Judge Tomlinson:

By letter dated September 28, 2007, plaintiff moved to compel the responses to certain discovery requests made of defendant. Those requests are straightforward and commonplace in copyright infringement actions. In response, defendant submitted a letter, a three-page declaration and voluminous exhibits. Plaintiff hereby asks the Court's permission to submit a brief reply, necessitated by the unauthorized submission of plaintiff that far exceeded this Court's three page limit.

It is important for the Court to have before it a fair understanding of what defendant has done, not what it misrepresents and obfuscates in its unauthorized declaration (*e.g.*, hiding that for each of the 900 infringing photographs it displayed, each of which identifies a brand, it offered as many as nine products under that brand, or that it sends its drop shipper partners the infringing photographs for their use in selling defendant's products and which would identify the "John Doe" defendants, or that its expenses across the board would undermine any contrived claim to deductions in its attempt to reduce profits).

Plaintiff requests permission to submit a brief reply to address these issues.

Respectfully submitted,

Robert L. Sherman
of PAUL, HASTINGS, JANOFSKY & WALKER LLP
RLS/lr
cc: David Rabinowitz, Esq. (Via Fax: 212-554-7700)

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